

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

KENNETH MEDENBACH, et al.,

No. 3:16-cv-01617-MO
OPINION AND ORDER

Plaintiffs,

v.

ANNA J. BROWN, et al.,

Defendants.

MOSMAN, J.,

Pro se Plaintiffs filed a Complaint [2] alleging Judge Brown lacks the authority to oversee their pending criminal case No. 3:16-cr-00051-BR. Plaintiff Kenneth Medenbach filed an Application for Leave to Proceed IFP [1]. For the following reasons, I DENY the Motion for Leave to Proceed IFP [1] and DISMISS the case.

DISCUSSION

Plaintiff Medenbach invokes 28 U.S.C. § 1915 to apply for leave to proceed *in forma pauperis*. A complaint filed *in forma pauperis* may be dismissed if it is determined that the action is frivolous, malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. *See* 28 U.S.C. § 1915(e)(2)(B).

There are three reasons why this case is frivolous and thus must be dismissed. First, it is untenable to use a civil case to dismiss a criminal case. Second, this precise issue has been decided several times in the criminal case [932], and I view those decisions as binding, at least until the conclusion of the criminal case. Third, the merits of Plaintiffs' arguments are frivolous. *See United States v. Medenbach*, 1997 WL 306437, at *3 (9th Cir. June 5, 1997) (holding "we reject Medenbach's claim that the district court judge's oath of office was deficient").

CONCLUSION

Mr. Medenbach's Application for Leave to Proceed IFP [1] is DENIED. Plaintiffs' complaint is DISMISSED.

IT IS SO ORDERED.

DATED this 16th day of August, 2016.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
Chief United States District Judge